



IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1975

No. 75- 1498 1

PAMELA FORTIER GOLZ
and WILLIAM J. GOLZ,

Appellants,

vs.

CHILDREN'S BUREAU OF
NEW ORLEANS, INC.,

Appellee.

On Appeal from the
Supreme Court of Louisiana

JURISDICTIONAL STATEMENT

April, 1976

Donald Juneau
Stanley A. Halpin Jr.
344 Camp Street, Suite 1212
New Orleans, Louisiana 70130

Michael F. Thompson
P.O. Box 3086
Lafayette, Louisiana 70501

Attorneys for Appellants

TABLE OF CONTENTS

Table of Authorities	i
Jurisdictional Statement	1
Opinions Below	2
Grounds on Which the Jurisdiction of this Court is Invoked	2
The Statute Involved	3
Questions Presented	3
Statement of the Case	4
The Federal Questions are Substantial	8
1. The Due Process Question	8
2. The Voluntariness of Consent ...	10
Appendix A	13
Appendix B	14
Appendix C	21
Appendix D	26

TABLE OF AUTHORITIES

Cases

<u>In re Adoption of a Child</u> , 57 N.J. Super.154, 154 A.2d 129 (1959).....	9
<u>In re Adoption of Minor</u> , 127 F.Supp. 256 (D.D.C.1954).....	8
<u>In re Adoption of a Minor</u> , 338 Mass. 635, 156 N.E.2d 801 (1959).....	8
<u>In re Amorello</u> , 229 La.304, 85 So.2d 883 (1956)	8
<u>Armstrong v. Manzo</u> , 380 U.S.545 (1965).....	10
<u>Ball v. Campbell</u> , 219 La.1076, 55 So.2d 250 (1951).....	8
<u>Bell v. Burson</u> , 402 U.S.535 (1971).....	10
<u>Berwin v. Riedy</u> , 62 N.M.183, 307 P.2d 175 (1957).....	8
<u>Cafeteria & Restaurant Workers Union v. McElroy</u> , 367 U.S.886 (1961).....	10
<u>Re Adoption of Cannon</u> , 243 Iowa 828, 53 N.W.2d 877 (1952).....	8
<u>Catholic Charities v. Harper</u> , 337 S.W.2d 111 (Tex.1960).....	9
<u>In re David</u> , 256 A.2d 583 (Me.1969).....	9
<u>Driggers v. Jolley</u> , 219 S.C.31, 64 S.E.2d 19 (1951).....	9

<u>Duncan v. Davis</u> , 94 Idaho 205, 485 P.2d 603 (1971).....	11
<u>Durivage v. Vincent</u> , 102 N.H.481, 161 A.2d 175 (1960).....	8
<u>Fay v. Noia</u> , 372 U.S.391 (1963).....	11
<u>Fuentes v. Shevin</u> , 407 U.S.67 (1972).....	10
<u>Goldberg v. Kelly</u> , 397 U.S.254 (1970).....	10
<u>Golz v. Children's Bureau, Inc.</u> , 325 So.2d 282 (La.1976).....	2
<u>Gonzales v. Toma</u> , 330 Mich.35, 46 N.W.2d (1951).....	9
<u>In re Holman's Adoption</u> , 80 Ariz. 201, 295 P.2d 372 (1952).....	9
<u>Johnson v. Zerbst</u> , 304 U.S.458 (1938).....	11
<u>In re Adoption of Laules</u> , 216 Ore. 188, 338 P.2d 660 (1959).....	8-9
<u>Martin v. Ford</u> , 224 Ark.993, 227 S.W.2d 842 (1952).....	9
<u>Mayfield v. Braun</u> , 217 Miss.514, 64 So.2d 713 (1953).....	9
<u>Meyers v. Nebraska</u> , 262 U.S.390 (1923).....	11
<u>Miller v. Miller</u> , 8 Utah 2d 290, 333 P.2d 945 (1959).....	9
<u>Miranda v. Arizona</u> , 384 U.S.436 (1966).....	12

<u>Morrissey v. Brewer</u> , 408 U.S.471 (1972).....	10
<u>In re Nelrus</u> , 153 Wash.242, 279 P.748 (1929).....	9
<u>North Georgia Finishing, Inc. v. Di-Chem, Inc.</u> , 419 U.S.601 (1975)...	10
<u>People ex rel. Anonymous v. New York Foundling Hospital</u> , 17 App.Div.2d 122, 232 N.Y.S.2d 479 aff'd 12 N.Y.2d 863, 237 N.Y.S.2d 339, 187 N.E.2d 791 (1962).....	12
<u>People ex rel. Karr v. Weihe</u> , 30 Ill.App.371, 174 N.E.2d 897 (1961)...	11
<u>Rhodes v. Shirley</u> , 234 Ind.587, 129 N.E.2d 60 (1955).....	8
<u>Scarpetta v. Spence-Chapin Adoption Service</u> , 28 N.Y.2d 185, 269 N.E.2d 789, 321 N.Y.S.2d 65, appeal dis- missed 404 U.S.805 (1971).....	8,11
<u>Ex Parte Schalty</u> , 64 Nev.264, 181 P.2d 585 (1947).....	8
<u>Skeen v. Marx</u> , 105 So.2d 517 (Fla.App.1958).....	9
<u>Stanley v. Illinois</u> , 405 U.S.645 (1972).....	8
<u>In re Stone's Adoption</u> , 398 Pa.190, 156 A.2d 808 (1959).....	9
<u>In re Thompson's Adoption</u> , 178 Kan. 127, 283 P.2d 493 (1955).....	9
<u>Welsh v. Young</u> , 240 S.W.2d 583 (Ky.Ct.of App.1951).....	8

<u>In re White's Adoption</u> , 300 Mich. 378, 1 N.W.2d 579 (1942).....	9
<u>Williams v. Pope</u> , 28 Ala.416, 203 So.2d 277 (1967).....	8

Constitutional Provisions and Statutes

Cal. Civil Code §226a.....	8
Colo.Rev.Stat. §§22-4-1 to 22-4-7.....	10
Del.Code Ann.tit.13, ch.9, §909.....	8
Ga.Code Ann. §74-403[1].....	8
Haw.Rev.Stat. §578-2.....	9
Ill.Rev.Stat.ch.4, §9.1-11.....	9
Louisiana Code of Civil Procedure Articles 3821 et seq.....	2
Louisiana Constitution, Art.5, §5 (1974).....	2,7
La.Rev.Stat.9:402.....	2,3,7
La.Rev.Stat.9:431.....	8
Md.Code Ann.art.16, §74.....	8
Mich.Comp.Laws Ann. §710.12.....	10
Mont.Rev.Codes Ann. §61.206.....	8
N.C.Gen.Stat. §48-11.....	9
Ohio Rev.Code §3107.06.....	9
Okla.Stat.Ann.tit.10, §60.10.....	8

S.D.Comp.Laws Ann. §25-6-12.....	9
Tenn.Code Ann. §36-117.....	9
28 U.S.C. §1257(2).....	3
U.S.Constitution, 14th Amendment.....	7
Ut.Stat.Ann.15, §432.....	10
Rev.Code Wash.Ann. §26.36010.....	10
W.Va.Code §48-3-1a.....	9
Wyo.Stat.Ann.1-710.3.....	9

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1975

No. 75-_____

PAMELA FORTIER GOLZ
and WILLIAM J. GOLZ,

Appellants,

vs.

CHILDREN'S BUREAU OF
NEW ORLEANS, INC.,

Appellee.

On Appeal from the
Supreme Court of Louisiana

JURISDICTIONAL STATEMENT

Appellants appeal from the judgment of the Supreme Court of Louisiana, entered on January 29, 1976, which affirmed the dismissal of a civil habeas corpus action by the Civil District Court of the Parish of Orleans, and submit this statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial federal constitutional question is presented.

OPINIONS BELOW

The judgment of the Supreme Court of Louisiana entered on January 29, 1976 affirming the dismissal of the civil habeas corpus action by the Civil District Court of the Parish of Orleans is unreported and is set out in Appendix A. The opinion of the Supreme Court of Louisiana, dated February 12, 1976 setting forth the reasons for its judgment of affirmance is reported at 326 So.2d 825 (La.1976), and is set out in Appendix B. The opinion of the Civil District Court rejecting the demand of the appellants is unreported and is set out in Appendix C. The notice of appeal to the Supreme Court of the United States is set out in Appendix D.

GROUND ON WHICH THE JURISDICTION OF THIS COURT IS INVOKED

Appellants petitioned the Civil District Court of the Parish of Orleans for a writ of civil habeas corpus under Articles 3821 et seq. of the Louisiana Code of Civil Procedure. After an evidentiary hearing, the Civil District Court dismissed the action and appellants took an appeal to the Louisiana Court of Appeal for the Fourth Circuit. While this appeal was pending, appellants then invoked the original jurisdiction of the Louisiana Supreme Court under Article 5, §5 of the Louisiana Constitution of 1974 by filing an application for writs of review, prohibition and injunction. On January 21, 1976, the Louisiana Court granted certiorari to review the judgment of the Civil District Court. 325 So.2d 282. In their application for writs, appellants raised for the first time the question of whether La.Rev.Stat 9:402 was violative of

their due process rights guaranteed by the Fourteenth Amendment. Judgment affirming the Civil District Court's dismissal was entered on January 29, 1976, and notice of appeal to this Court was filed on March 24, 1976. Jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by 28 U.S.C. §1257(2).

THE STATUTE INVOLVED

Title 9, Section 402 of the Louisiana Revised Statutes provides as follows:

Any parent of a child, whether the child was born in wedlock or out of wedlock and whether the parent is over or under twenty-one years of age, may surrender the permanent custody of his child to an agency for the purpose of having the child adopted by appearing before a notary and two witnesses and declaring that all of his rights, authority, and obligations, except those pertaining to property, are transferred to the agency. This authentic act shall be signed by the agency and shall constitute a transfer of custody to the agency after which the agency shall act in lieu of the parent in subsequent adoption proceedings. No surrender of the custody of a child shall be valid unless it is executed according to the provisions of this Part.

QUESTIONS PRESENTED

1. Whether La.Rev.Stat.9:402 is violative of due process because it provides for no hearing prior to the termination of parental rights and notice or hearing prior to the granting of an adoption decree.

2. Whether the trial court judge applied the correct federal constitutional standard in determining whether or not appellants had intentionally relinquished or abandoned a known right or privilege when they executed an Act of Surrender which terminated their parental rights over their child.

STATEMENT OF THE CASE

Appellants are wife and husband who are the parents of two children. The first child, a girl, was born on October 15, 1972, and lives with her parents. In December, 1974, Mrs. Pamela Golz, seven months pregnant, initiated discussions with the Agency about the possibility of surrendering the child yet to be born for adoption once it was born. No decision or agreement was arrived at. The child, later named Joshua, was born on February 13, 1975 in Lafayette, Louisiana, where Mr. and Mrs. Golz reside. After the birth of the child, Mr. and Mrs. Golz continued to discuss the possibility of giving up their child for adoption. The couple was experiencing marital and financial difficulties, and was in a state of continual mental and emotional distress.

On April 9, 1975, Mrs. Golz appeared at the New Orleans offices of the Children's Bureau of New Orleans, Inc. (the Agency), and told the Agency's employees there that she and her husband had decided to place the child for adoption. Mrs. Golz left the child at the Agency but one week later Mr. Golz telephoned the Agency and informed it that he and Mrs. Golz had changed their minds about the adoption. The Agency returned the child to Mr. and Mrs. Golz on April 18, 1975.

The marital and financial problems besetting Mr. and Mrs. Golz continued, with the consequent mental and emotional upsets. Mr. Golz, who is a carpenter by trade, could not find regular employment because of unusually bad weather conditions which caused construction work to be delayed or postponed. Both he and Mrs. Golz were educated only to the ninth grade, and thus neither had particularly good prospects in the recession job market. As a result of the continuing uncertainty of their lives, Mr. Golz telephoned the Agency on the morning of August 18, 1975 to tell it that they had decided to place the child for adoption. The couple then drove to New Orleans from Lafayette, arriving in the city at approximately 4.10 p.m.

By the time they entered the offices of the Agency, Mr. and Mrs. Golz were emotionally upset to a considerable degree, highly distraught and were not in a state of mind to make a rational judgment as to their child. Mrs. Golz began to weep and told one of the Agency's employees that "we were not ready, we are not sure." While the Agency began to make arrangements for the notarial act of surrender, Mrs. Golz told one of the Agency's employees: "We can't make up our minds and we aren't ready to go to the lawyer's office." Despite these indications of uncertainty and vacillation on the part of the parents, intense pressure was applied on the adult Golzes by the Agency's employees and agents to go through with the surrender. The notary public, who was also an attorney representing the Agency, did not advise Mr. and Mrs. Golz that what they were about to sign was an irrevocable surrender of their child.

Although he could see the acute distress and state of shock the couple was in, the attorney urged that the surrender be executed, and notarized it.

Mr. and Mrs. Golz did not understand that import, meaning or effect of the Act of Surrender for the following reasons:

(a) the document is couched in legalese, difficult to understand and comprehend by persons who, like the Golzes, have not completed a high school education;

(b) Mr. and Mrs. Golz were in such a state of acute mental and emotional distress and pain as not to understand or comprehend what it was they were signing or its consequences, even if they had had the necessary education and training to construe it;

(c) the Agency and its employees and attorney took advantage of the Golzes' distress, their lack of education, and their youth and naiveté;

(d) the Agency, and its employees, acted unreasonably in rushing through the Act of Surrender in view of the fact that the Golzes had shown uncertainty, instability and vacillation during the previous ten months with respect to the adoption;

(e) no neutral or uninterested party advised or counselled the Golzes at the time of the surrender.

After the Act of Surrender was executed, Joshua Golz was taken away from his parents, and they have not seen him since. The Golzes drove back to Lafayette the same day. Both were disconsolate, upset and in

a state of shock. After a sleepless night, they telephoned the Agency at 8.30 a.m., August 19, 1975, and told it that they had changed their minds and wanted Joshua back. They were informed that this court not be done under La.Rev.Stat.9:402.

On August 21, 1975, the Agency gave custody of Joshua to a couple whose identity is unknown to appellants or their counsel. Mr. and Mrs. Golz applied for a writ of habeas corpus from the Civil District Court for the Parish of Orleans on September 2, 1975. Golz v. Children's Bureau, No. 598-179. The lower court denied the application on September 16, 1975. An appeal from the judgment to the Louisiana Fourth Circuit Court of Appeal was timely taken. After several months had passed, counsel for appellants filed a petition for supervisory writs with the Supreme Court of Louisiana on January 12, 1976, under Article 5, §5 of the Louisiana Constitution. In the petition were raised for the first time the questions of the invalidity of La.Rev.Stat.9:402 under the Due Process Clause of the Fourteenth Amendment, and the involuntary consent to the surrender as not being an intentional relinquishment or abandonment of a known constitutional right. The Louisiana Supreme Court, which has plenary power under the state constitution to supervise the work of lower state courts, considered the constitutional questions raised but decided against the Golzes on January 29, 1976. The court issued an opinion setting forth reasons for its judgment on February 12, 1976. Appellants noticed an appeal to this Court on March 24, 1976.

THE FEDERAL QUESTIONS ARE SUBSTANTIAL

1. The Due Process Question. Parents cannot be deprived of custody of their children absent due process, and this due process protection extends to adoption procedures. Stanley v. Illinois, 405 U.S. 645 (1972). La. Rev.Stat. 9:402 sets forth the procedure for the surrender of a child for adoption. After execution of an act of surrender before a notary and two witnesses, the surrender is irrevocable. In re Amorello, 229 La. 304, 85 So. 2d 883 (1956); Ball v. Campbell, 219 La. 1076, 55 So. 2d 250 (1951); La. Rev. Stat. 9:431. Other jurisdictions, however, vest the court with discretion to set aside the adoption. Alabama: Williams v. Pope, 28 Ala. 416, 203 So. 2d 271 (1967); California: Cal. Civil Code §226.a; Delaware: Del. Code Ann. tit. 13, ch. 9, §909; District of Columbia: In re Adoption of Minor, 127 F. Supp. 256 (D.D.C. 1954); Georgia: Ga. Code Ann. §74-403[1]; Indiana: Rhodes v. Shirley, 234 Ind. 587, 129 N.E. 2d 60 (1955); Iowa: Re Adoption of Cannon, 243 Iowa 828, 53 N.W. 2d 877 (1952); Kentucky: Welsh v. Young, 240 S.W. 2d 583 (Ky. Ct. of App. 1951); Maryland: Md. Code Ann. art. 16, §74; Massachusetts: In re Adoption of a Minor, 338 Mass. 635, 156 N.E. 2d 801 (1959); Missouri: Mo. Stat. Ann. tit. 30, §453.050[2]; Montana: Mont. Rev. Codes Ann. §61.206; New Hampshire: Durivage v. Vincent, 102 N.H. 481, 161 A. 2d 175 (1960); New Jersey: In re Adoption of a Child, 57 N.J. Super. 154, 154 A. 2d 129 (1959); New Mexico: Berwin v. Riedy, 62 N.M. 183, 307 P. 2d 175 (1957); New York: Scarpetta v. Spence-Chapin Adoption Service, 28 N.Y. 2d 185, 269 N.E. 2d 789, 321 N.Y.S. 2d 65, appeal dismissed 404 U.S. 805 (1971); Nevada: Ex Parte Schalty, 64 Nev. 264, 181 P. 2d 585 (1947); Oklahoma: Okla. Stat. Ann. tit. 10, §60.10; Oregon: In re Adoption of Laules, 216 Ore. 188, 228 P. 2d

660 (1959); South Carolina: Driggers v. Jalley, 219 S.C. 31, 64 S.E. 2d 19 (1951); Utah: Miller v. Miller, 8 Utah 2d 290, 333 P. 2d 945 (1959); Wisconsin: Wis. Stat. Ann. 7, §48.86; Wyoming: Wyo. Stat. Ann. 1-710.3. Other jurisdictions allow a consent or relinquishment to be withdrawn at some period of time before entry of the final decree of adoption. Arizona: In re Holman's Adoption, 80 Ariz. 201, 295 P. 2d 372 (1952); Arkansas: Martin v. Ford, 224 Ark. 993, 277 S.W. 2d 842 (1952); Hawaii: Haw. Rev. Stat. §578-2; Kansas: In re Thompson's Adoption, 178 Kan. 127, 283 P. 2d 493 (1955); Michigan: In re White's Adoption, 300 Mich. 378, 1 N.W. 2d 579 (1942), but see Gonzales v. Toma 330 Mich. 35, 46 N.W. 2d 453 (1951) (surrenders absolutely irrevocable); Mississippi: Mayfield v. Braun, 217 Miss. 514, 64 So. 2d 713 (1953); North Carolina: N.C. Gen. Stat. §48-11; Ohio: Ohio Rev. Code §3107.06; Pennsylvania: In re Stone's Adoption, 398 Pa. 190, 156 A. 2d 808 (1959); South Dakota: S.D. Comp. Laws Ann. §25-6-12; Tennessee: Tenn. Code Ann. §36-117; Texas: Catholic Charities v. Harper, 337 S.W. 2d 111 (Tex. 1960); Washington: In re Nelrus, 153 Wash. 242, 279 P. 748 (1929); West Virginia: W.Va. Code §48-4-1a. Besides Louisiana, three other jurisdictions make such a consent adoption completely irrevocable: Florida: Skeen v. Marx, 105 So. 2d 517 (Fla. App. 1958); Illinois: Ill. Rev. Stat. ch. 4, §9.1-11; Maine: In re David, 256 A. 2d 583 (Me. 1969).

Because of the fact that these jurisdictions do provide for an irrevocable termination of parental rights upon surrender, the first question presented is of national importance. There should be some way of asserting parental rights in a situation like the present case, where there has been

an improvident or involuntary giving of consent. This is not to say that Louisiana must provide a trial-type hearing in every case where there is such an improvident consent. Cf. Cafeteria & Restaurant Workers Union v. McElroy, 367 U.S.886, 894 (1961), but where there are substantial questions raised as to the voluntariness of the consent, an evidentiary hearing of an adversary nature should be provided. Goldberg v. Kelly, 397 U.S.254 (1970); Armstrong v. Manza, 380 U.S.545 (1965); cf. Morrissey v. Brewer, 408 U.S.471 (1972). A due process hearing of some sort is necessary in order to adequately protect the constitutionally given right to the parents to custody of their children against arbitrary denial.

Many jurisdictions do provide a hearing to the natural parents before termination of their parental rights by adoption. Colo.Rev.Stat. §§22-4-1 to 22-4-7; Mich.Comp. Laws Ann. §710.12; Vt.Stat.Ann.15, §432; Rev. Code Wash.Ann. §26.36010. The failure of Louisiana to provide a forum for establishing improvidency or non-voluntariness of consent is violative of due process, and should be corrected by this Court. North Georgia Finishing, Inc. v. Di-Chem, Inc., 419 U.S.601 (1975); Fuentes v. Shevin, 407 U.S.67 (1972); Bell v. Burson, 402 U.S.535 (1971).

2. The Voluntariness of Consent. In view of the discussion above, it is obvious that neither the trial court nor the Louisiana Supreme Court applied the correct federal constitutional standard of law in determining whether Mr. and Mrs. Golz had validly given their consent to the Act of Surrender. Any surrender of rights must be "an intentional

relinquishment or abandonment of a known right or privilege." Johnson v. Zerbst, 304 U.S.458 at 464 (1938); see also Fay v. Noia, 372 U.S.391, 439 (1963). Since Mr. and Mrs. Golz have a constitutional right to custody and control over their child, Meyers v. Nebraska, 262 U.S.390 (1923), they were entitled to have the "'courts indulge every reasonable presumption against waiver' of fundamental constitutional rights * * * [with no presumption of] acquiescence in the loss of fundamental rights." Johnson v. Zerbst, *supra* (footnotes omitted). The Louisiana Supreme Court's decision is at variance with the standard laid down by this Court in Johnson v. Zerbst and should be reversed.

Moreover, there is another consideration which the Louisiana courts did not recognize, and that is the emotionally painful circumstances which invariably accompany parents' surrender of their child for adoption. Other Courts have acknowledged this reality. Thus, in People ex rel. Scarpetta v. Spence-Chapin Adoption Service, 28 N.Y.2d 185, 191, 321 N.Y.S.2d 65, 69, 269 N.E.2d 787, 790 appeal dismissed 404 U.S.805 (1971), the Court of Appeals emphasized "the recognition that documents of surrender are not contracts or deeds, and are almost always executed under circumstances which may cast doubt upon their voluntariness or on understanding of the consequences of their supervision." See also Duncan v. Davis, 94 Idaho 205, 485 P.2d 603 (1971); People ex Rel. Karr v. Weihe, 30 Ill.App.371, 373, 174 N.E.2d 897 (1961). And even in a case such as this, where there has been a history of vacillation and changes of mind by the parents, it must be remembered that "the change of mind by a

natural parent is not an evil thing. Instead the change of mind is to be accorded great sympathy, and, in a proper case, encouragement and favorable action." People ex rel. Anonymous v. New York Foundling Hospital, 17 App.Div.2d 122, 125, 232 N.Y.S.2d 479, 483 aff'd 12 N.Y.2d 863, 237 N.Y.S.2d 339, 187 N.E.2d 791 (1962). In Miranda v. Arizona, 384 U.S.436 (1966), this Court determined that police interrogation was inherently coercive and laid down guidelines for its employment. Appellants ask that this Court recognize the inherent problems attendant upon the surrender of a child for adoption by its natural parents, and set up guide-lines for determining the voluntariness of such consent. In the instant case, there was coercion on the part of the adoption agency, and the Louisiana courts' failure to take this into account and rule the consent involuntary requires that the decision of the Louisiana Supreme Court be reversed.

Respectfully submitted,

DONALD JUNEAU
STANLEY A. HALPIN, JR.
MICHAEL F. THOMPSON

Attorneys for Appellants

April, 1976

[APPENDIX A]

WILLIAM JONATHAN GOLZ and
PAMELA MARIE FORTIER GOLZ

THURSDAY, JAN. 29, 1976

V.

SUPREME COURT OF LOUISIANA
NO. 57,373

CHILDREN'S BUREAU OF
NEW ORLEANS, INC.

ON SUPERVISORY WRITS TO THE
CIVIL DISTRICT COURT, PARISH OF ORLEANS,
HONORABLE MELVIN DURAN, JUDGE

SANDERS, Chief Justice.

Because of the exigencies of this case, requiring prompt disposition, we hand down our decision, the reasons for which will follow in due course.

The judgment of the Civil District Court for the Parish of Orleans, rejecting petitioners' demand, is affirmed.

Summers, J., dissents.

[APPENDIX B]

William Jonathan GOLZ and Pamela
Marie Fortier Golz

v.

CHILDREN'S BUREAU OF NEW
ORLEANS, INC.

No. 57373.

Supreme Court of Louisiana.

Jan. 29, 1976.

Reasons for Judgment given Feb. 12, 1976.

Rehearing Denied Feb. 20, 1976.

Habeas corpus proceeding was brought involving issue of whether a notarial act of surrender by parents of child to licensed adoption agency was valid and irrevocable. The Civil District Court for the Parish of Orleans, Melvin Duran, J., rejected petitioners' demand and certiorari was granted. The Supreme Court, Sanders, C. J., held that evidence supported finding that parents of child had validly consented to act of surrender of child; that the act of surrender executed by both parents of legitimate child was irrevocable; and that the adoption statute was constitutional as applied.

Judgment affirmed.

Summers, J., dissented and was of the opinion that a rehearing should be granted.

1. Infants \Rightarrow 19.4

Minors: Consent of parties is requirement for act of surrender by parents of child to licensed adoption agency. LSA-R.S. 9:402 et seq.; LSA-C.C. arts. 1779, 1819.

2. Infants \Rightarrow 19.4

Minors: Evidence sustained finding that there was valid consent by parents to act of surrender of child to licensed adoption agency. LSA-R.S. 9:402 et seq.; LSA-C.C. arts. 1779, 1819.

"Contract of adhesion" is standard contract, usually in printed form, prepared by party of superior bargaining power for adherence or rejection of the weaker party. LSA-C.C. arts. 1766, 1811.

See publication Words and Phrases for other judicial constructions and definitions.

4. Infants \Rightarrow 19.4

Mother's surrender to adoption agency of child born out of wedlock, not formally acknowledged or legitimated by father, terminates rights of both parents. LSA-R.S. 9:402, 9:404.

5. Bastards \Rightarrow 15

Termination of rights of both parents results from court judgment of abandonment rendered against mother of illegitimate child. LSA-R.S. 9:402, 9:404.

6. Parent and Child \Rightarrow 2(3.7)

As to legitimate children, no surrender or court order of abandonment as to one parent is binding upon the other.

7. Parent and Child \Rightarrow 2(3.7)

An effective surrender of legitimate child requires concurrence of both living parents. LSA-R.S. 9:402 et seq.

8. Parent and Child \Rightarrow 2(3.7)

Judgment of abandonment as to both parents of legitimate child requires that both parents be parties to the proceeding. LSA-R.S. 9:425, 9:427.

9. Infants \Rightarrow 19.4

Minors: Act of surrender executed by both parents of legitimate child to licensed adoption agency in compliance with statute is irrevocable. LSA-R.S. 9:425, 9:427.

10. Constitutional Law \Rightarrow 255(4)

Where parents voluntarily delivered possession of legitimate child to adoption

agency and surrendered their parental rights in formal instrument, such voluntary contractual disposition did not violate due process clause. U.S.C.A. Const. Amend. 14; LSA-C.C. art. 1779.

11. Infants \Rightarrow 19.4

Minors: Even if parents did not consult legal counsel of their choice at any time during their relationship with adoption agency, that would not make the act of surrender of legitimate child infirm or unenforceable. U.S.C.A. Const. Amend. 14; LSA-C.C. art. 1779.

12. Adoption \Rightarrow 2

Constitutional Law \Rightarrow 255(4)

Once rights of parents had been surrendered to adoption agency, parents no longer had interest to be protected in the adoption proceeding and fact that adoption statute precluded notice to them and opportunity for hearing in adoption proceeding subsequent to surrender did not deprive them of due process. LSA-R.S. 9:402 et seq.; LSA-C.C. arts. 1779, 1819; U.S.C.A. Const. Amend. 14.

Thompson & Perrin, Michael F. Thompson, Lafayette, for plaintiffs-applicants.

Baldwin, Haspel, Molony, Rainold & Meyer, Robert R. Rainold, New Orleans, for defendant-respondent.

SANDERS, Chief Justice.

Because of the exigencies of this case, requiring prompt disposition, we hand down our decision, the reasons for which will follow in due course.

The judgment of the Civil District Court for the Parish of Orleans, rejecting petitioners' demand, is affirmed.

SUMMERS, J., dissents.

Reasons for the judgment handed down herein on January 29, 1976.

SANDERS, Chief Justice.

The primary issue in this habeas corpus proceeding is whether or not a notarial act of surrender by parents of a child to a licensed adoption agency is valid and irrevocable. We hold that it is.

Petitioners, William Jonathan Golz and Pamela Marie Fortier Golz, are married and residents of Lafayette. On December 9, 1974, when Mrs. Golz was seven months pregnant, she came to New Orleans with the knowledge of her husband in order to arrange for the delivery of the baby at the New Orleans Charity Hospital and to initiate placement of the child for adoption. While in New Orleans, Mrs. Golz contacted the Children's Bureau of New Orleans, Inc., a state-licensed adoption agency. Mrs. Frances Keating, the intake supervisor, granted her an appointment on the same day. She conducted an intake interview, securing basic information concerning the family. She advised Mrs. Golz that placement would require the formal consent of both parents in an act of surrender and that once the surrender had been signed, it was irrevocable. After the mother inquired how soon the surrender could be signed, the intake supervisor advised her that it could be executed after the child was born.

The intake supervisor arranged for the assignment of Diane Lambly, a caseworker, to the adoption so that Mrs. Golz would be able to confer with her on her hospital visit scheduled for the following week. Mrs. Golz cancelled her trip to New Orleans the following week and advised the adoption agency that she would notify it when she returned.

From December 9, 1974, to February 12, 1975, Mrs. Golz had several telephone and written communications with Diane Lambly, the caseworker. During this period, she informed the agency that she had decided to have the baby delivered in Lafayette, instead of New Orleans. She expressed a desire to continue the adoption plan, and

the caseworker assured her that it could be done, despite the change in the place of delivery.

The child, Joshua Golz, was born on Thursday, February 13, 1975. The following day, Mr. Golz called the caseworker by telephone, advised her of the birth of the child, and made arrangements to bring the child for adoption on the weekend. The caseworker again explained that for placement both parents had to be present to execute a notarial act of surrender. She cautioned that when the notarial instrument was signed, they could no longer change their minds concerning the adoption. Ultimately, after a series of telephone conversations, the father telephoned that he and his wife had changed their minds about adoption. The Children's Bureau then closed the case.

On April 9, 1975, Mrs. Golz came to the Children's Bureau with the child and asked the caseworker if the agency would provide foster care pending the signing of a surrender by herself and her husband. She informed the caseworker that her husband was out of the state, but that he was agreeable to signing a surrender for adoption. The caseworker explained to her that the agency did not accept children for long-term foster care, but that it would accept temporary custody under the circumstances.

When the caseworker failed to hear from the parents by April 15, she telephoned the father. He stated that they had changed their minds about adoption and would come and get the baby. On April 18, the parents secured the child, and the case was again closed.

On August 18, Mr. Golz again telephoned the caseworker, expressing a desire to place the child for adoption. He ultimately inquired whether an act of surrender could be signed the same day. The caseworker advised him that arrangements would have to be made with an attorney, but that she would call him back. A few minutes later,

the caseworker telephoned the parents to inform them that arrangements had been made with the attorney to handle the surrender. The caseworker asked the parents to come to her office upon arrival in New Orleans.

After the parents arrived at the Children's Bureau, the caseworker conferred with them a few minutes. During the brief conference, she informed them that after the Act of Surrender had been signed, it could not be "undone."

They then walked about five blocks to a law office, where they were joined by the Casework Supervisor, Mrs. Virginia C. Jané.

The Attorney-Notary invited the group into the conference room, where he read aloud the Act of Surrender and explained that it could not be revoked after it had been signed. It was then executed by the parents and the Casework Supervisor for the Children's Bureau in the presence of the Notary Public and two witnesses.

The following day, the parents telephoned the Children's Bureau, requesting that the child be returned to them. The bureau officials advised them that the Act of Surrender was final and could not be revoked. On August 21, 1975, the bureau placed the child in the home of adoptive parents. This litigation followed.

The trial judge found that the parents freely and voluntarily executed the Act of Surrender with full knowledge of its legal consequences and held that the Act of Surrender, being to a licensed agency, could not be revoked under the statute, LSA-R.S. 9:402. We granted certiorari to review the judgment of the trial court. 325 So.2d 282 (1976).

In this Court, the petitioners advance various arguments, but they can be summarized from the assignments of error as follows:

(1) There was no valid consent by the parents to the Act of Surrender.

(2) Under the statute, the parents could and did revoke their consent.

(3) The statutory adoption procedure of LSA-R.S. 9:402 et seq. as applied here unconstitutionally deprives the parents and the child of due process of law.

Consent of the Parents

[1] The consent of the parties is one of the requirements for an act of surrender. If consent is lacking, there is no valid surrender. LSA-R.S. 9:402; LSA-C.C. Arts. 1779, 1819; *Cole v. Lumbermens Mutual Casualty Company*, La.App., 160 So.2d 785 (1964); S. Litvinoff, 6 Louisiana Civil Law Treatise—Obligations (Book 1), § 129, pp. 210-211 (1969).

As to consent, the trial judge found:

"There is no doubt in the Court's mind that there has never been any pressure, undue influence or the like brought to bear on these plaintiffs by the Children's Bureau. This is evident from the record and from December, 1974 up to the final act of surrender executed on August 18, 1975. It is also evident that these plaintiffs are mature individuals; not possessed of formal education beyond the ninth grade but by no means . . . illiterate."

" * * *

"The act of surrender executed in this case was not a rash, impulsive act on the part of the plaintiffs. It came after many months of careful and apparent continued thought and deliberation; during periods when these plaintiffs were thinking about surrendering their child, when the child was actually surrendered, when they had possession of their child and when they did not. . . ."

The finding of the trial judge is entitled to great weight. *Canter v. Kochring Company, La.*, 283 So.2d 716 (1973); *Gin-*

lee v. Helg, 251 La. 261, 203 So.2d 714 (1967).

[2] We concur in the finding. The record reflects that the decision to execute the Act of Surrender was reached after lengthy deliberation. Consummation of the surrender resulted from petitioners' independent action in contacting the Children's Bureau. Although petitioners had already been informed of the consequences of the Act of Surrender, the Attorney-Notary carefully read and explained the document to them before it was signed. It plainly stipulated:

"That appearers do hereby surrender the custody of said child unto CHILDREN'S BUREAU, an agency licensed by the Louisiana State Department of Public Welfare for the placement of children for adoption, represented herein by its Casework Supervisor, Mrs. Virginia C. Jané, here present and accepting said surrender, that with the execution of these presents, appearers give up and relinquish forever any legal claim to the said child, hereby transferring to the said Agency their authority over, and all of their rights and obligations to said child.

"Appearers further understand and consent that Children's Bureau may place said child for adoption, act for said appearers in any adoption proceeding, or provide such other care as shall be suitable, without consulting or informing appearers."

After the execution of the document, Mrs. Golz commented: "C'est fini" [all is over].¹ The Notary replied: "Yes, it is final."

The petitioners, however, equate the Act of Surrender to a contract of adhesion, in which because of disparate bargaining ability and the absence of negotiation between attorneys for the respective parties, consent was not free.

1. The New Cassell's French Dictionary, *verbo fini*, p. 248 (1971).

[3] Broadly defined, a contract of adoption is a standard contract, usually in printed form, prepared by a party of superior bargaining power for adherence or rejection of the weaker party. Often in small print, these contracts sometimes raise a question as to whether or not the weaker party actually consented to the terms. See LSA-C.C. Arts. 1766, 1811; S. Litvinoff, 6 Louisiana Civil Law Treatise—Obligations (Book 1), § 194, pp. 346-349 (1969).

The Act of Surrender here raises no substantial question as to consent. It is a one-page, typewritten document, captioned Act of Surrender of Joshua Golz. Executed in strict conformity with the statute, it serves one purpose and one purpose only. It irrevocably transfers custody of the child to the adoption agency for placement in an adoptive home.

As we have noted, the parents were fully aware of the content and effect of the instrument before they signed it. We conclude, as did the trial judge, that the surrender represents a free and deliberate exercise of will. This being true, the law gives it legal effect.

Revocability of Consent

The petitioners assert, however, that under the statute consent can be revoked.

LSA-R.S. 9:402 provides:

"Any parent of a child, whether the child was born in wedlock or out of wedlock and whether the parent is over or under twenty-one years of age, may surrender the permanent custody of his child to an agency for the purpose of having the child adopted by appearing before a notary and two witnesses and declaring that all of his rights, authority, and obligations, except those pertaining to property, are transferred to the agency. This authentic act shall be signed by the agency and shall constitute a transfer of custody to the agency after which the agency shall act in lieu of the

parent in subsequent adoption proceedings. No surrender of the custody of a child shall be valid unless it is executed according to the provisions of this Part."

On its face, the statute is clear. It authorizes the surrender of "permanent custody" to a licensed agency and the transfer to that agency of all of the parents' rights, authority, and obligations, excepting only those pertaining to property. Thereafter, the agency acts in lieu of the parents in adoption proceedings.

In the case of *In re Amorello*, 229 La. 304, 85 So.2d 883 (1956), dealing with the surrender of an illegitimate child under this statutory provision, this Court stated:

"The act of surrender in favor of an accepting agency gives the irrevocable control and custody of the child to that agency with the privilege of placing it for adoption."

See also *Ball v. Campbell*, 219 La. 1076, 55 So.2d 250 (1951); Wadlington, Adoption of Persons under Seventeen in Louisiana, 36 Tul.L.Rev. 201, 214 (1962).

Petitioners argue, however, that LSA-R.S. 9:404 makes a distinction between the mother's surrender of an illegitimate child and the parents' surrender of a legitimate child. That section provides:

"A surrender by the mother of a child born out of wedlock who has not been formally acknowledged or legitimated by the father terminates all parental rights except those pertaining to property. The same shall be true as to a court order of abandonment. However, no surrender or court order of abandonment as to only one living parent of a legitimate child shall be binding upon the other living parent."

Specifically, the petitioners argue that the section provides for termination of parental rights when an illegitimate child is surrendered by the mother but contains no such authority for the surrender of a legiti-

mate child. Hence, petitioners reason that the mother's surrender of an illegitimate child is irrevocable, while the parents' surrender of a legitimate child may be revoked.

[4-8] In our opinion, the section does not lend itself to such an interpretation. The section merely regulates the termination of rights when there are two living parents. The mother's surrender of a child born out of wedlock, not formally acknowledged or legitimated by the father, terminates the rights of both parents. The same termination of the rights of both parents results from a court judgment of abandonment rendered against the mother of an illegitimate child. As to legitimate children, no surrender or court order of abandonment as to one parent is binding upon the other. An effective surrender of a legitimate child requires the concurrence of both living parents. Likewise, a judgment of abandonment as to both parents of a legitimate child requires that both parents be parties to the proceeding.

This construction is fortified by other provisions of the adoption statute. LSA-R.S. 9:425 dispenses with service of the adoption petition upon the living parents when the child has been legally surrendered to a licensed agency. LSA-R.S. 9:427 dispenses with the requirement that the Welfare Department locate and consult the living parents when the child has been legally surrendered. LSA-R.S. 9:434 authorizes a final decree of adoption at the first hearing when the child has been placed by a licensed adoption agency.

Louisiana is not alone in providing for the irrevocability of an act of surrender to a licensed adoption agency. New Mexico, Nevada, Mississippi, Indiana, Illinois, Ohio, New Jersey, and the District of Columbia are among the jurisdictions which provide that such a surrender by a natural parent is irrevocable, in the absence of fraud or duress. See New Mexico Statutes Ann. § 22-2-27 (Supp.1975); Nev.Rev.Statutes § 127.000; Miss.Code of 1972 Ann. § 93-17-9; Ohio Revised Code Ann. § 3107.06

(B)(2); Dist. of Columbia § 16-304 and § 32-786; N.J.Statutes 9:2-16; *Aceto v. Arizona Dept. of Public Welfare*, 20 Ariz. App. 407, 513 P.2d 1350 (1973); *Catholic Charities of the Diocese of Galveston, Inc. v. Harper*, 161 Tex. 21, 337 S.W.2d 111 (1960); *Gonzales v. Toma*, 330 Mich. 35, 46 N.W.2d 453 (1951); *Kozak v. Lutheran Children's Aid Society*, 164 Ohio 335, 130 N.E.2d 796 (1955); *Adoption of Doe*, 87 N. M. 253, 531 P.2d 1226 (1975).

[9] We conclude that an act of surrender executed by both parents of a legitimate child to a licensed adoption agency in compliance with LSA-R.S. 9:402 is irrevocable.

Constitutionality of Statute

Finally, petitioners assert that the statutory procedure applied here is unconstitutional in that it deprives them and their child of due process of law. Specifically, petitioners contend that the statute is defective in that it provides for no hearing prior to the termination of parental rights and no notice or hearing prior to the granting of the adoption decree. Petitioners rely upon the decision of the United States Supreme Court in *Fuentes v. Shevin*, 407 U.S. 67, 92 S.Ct. 1983, 32 L.Ed.2d 556 (1972).

In *Fuentes v. Shevin*, supra, the Supreme Court of the United States held that the pre-judgment replevin statutes of Florida and Pennsylvania, giving a creditor the right to take immediate possession of movable property in the hands of the debtor, violated procedural due process under the Fourteenth Amendment to the United States Constitution. The Florida statute authorized repossession of the goods "without judicial order, approval or participation." The Pennsylvania statute was considered to be essentially the same, except that it had no requirement that a hearing on the merits of conflicting claims ever be held. See *Mitchell v. W. T. Grant Co.*, 416 U.S. 600, 94 S.Ct. 1895, 40 L.Ed.2d 406 (1974).

With these reasons for judgment, we repeat the decree handed down in this matter on January 29, 1976: The judgment of the Civil District Court for the Parish of Orleans, rejecting petitioners' demand, is affirmed.

SUMMERS, J., dissents.

[10] The holding in *Fuentes v. Shevin* is inapplicable to the present statute. That case involved the involuntary dispossession, or seizure, of property in the possession of the debtor under the guise of state action. In the instant case, the parents voluntarily delivered possession of the child to the agency and surrendered their parental rights in a formal instrument. Such a voluntary contractual disposition is not reprobated by the Due Process Clause. Contrary to petitioners' contention, due process does not require that a judicial hearing precede the execution of the contract.

[11] The petitioners, of course, had the right to consult legal counsel of their choice at any time during their relationship with the Children's Bureau. The record does not reflect whether or not they did. If they did not do so, as they now allege, the absence of such legal consultation does not make the surrender infirm or unenforceable. See LSA-C.C. Art. 1779. The petitioners have cited no constitutional authority requiring that parties be represented by legal counsel in the confection of contracts of this type, and we know of none.

[12] Petitioners also complain that the statute precludes notice to the parents and an opportunity for hearing in the adoption proceeding subsequent to the surrender. We find no deprivation of due process here. Once the rights of the parents have been surrendered to the agency, the parents no longer have an interest to be protected in the adoption proceeding. The agency becomes the real party in interest and, as the statute provides, acts in lieu of the parents in subsequent adoption proceedings. It is well established that the Due Process Clause applies only when a person is subject to deprivation of "life, liberty, or property" by state action. See *Reitman v. Mulkey*, 387 U.S. 369, 87 S.Ct. 1627, 18 L.Ed.2d 830 (1967); *Shelley v. Kraemer*, 334 U.S. 1, 68 S.Ct. 836, 92 L.Ed. 1161 (1948).

We hold that the statute as applied in the instant case is constitutional.

[APPENDIX C]

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

No. 598-179 DIVISION "H" DOCKET 5

WILLIAM JONATHAN GOLZ
and
PAMELA MARIE FORTIER GOLZ

vs

CHILDREN'S BUREAU OF NEW ORLEANS

[Filed September 15, 1975]

REASONS FOR JUDGMENT

The evidence preponderates to establish the following facts.

In December, 1974, when plaintiff-wife was seven and a half months pregnant, with the knowledge and consent of her husband she initially contacted the Children's Bureau, to arrange for the surrender and adoption of their child when it was born.

The child was born February 13, 1975, and in the interim between December 1974 and February 14, 1975, there were numerous occasions on which the proposed surrender of the child for adoption was planned and discussed by the parties. Firm, definite arrangements were made to surrender the child as late as February 14, 1975, the day after its birth. These were not carried

out on that date because, as yet, the mother and child were not discharged from the hospital. The physical surrender of the child was planned by the father, acting for himself and his wife, with the Bureau scheduled to meet them and to receive the baby the next day. These plans were cancelled on the following day, with the plaintiffs informing the defendants that they had changed their minds. Then, in April, 1975, the plaintiffs themselves revived the situation, contacted the Bureau, physically surrendering custody for about a week to the defendants. They then again changed their minds, picked up their child and cancelled all plans for adoption. They had custody of their baby for four months and then in August they, not the Bureau, again revived the situation.

This time, with foreknowledge, before they ever left Lafayette to come to New Orleans, they were told, knew and understood, that they were to come to New Orleans for the specific purpose of surrendering their child (formally) to the Bureau for adoption purposes. The child's clothing, food, etc. were brought with the child, as were instructions for its feeding, etc. Rather than go directly to the lawyer's office to execute the formal act of surrender, the Bureau suggested they meet privately. This was accomplished and following the conference, the parties went to the lawyer's office where an act of surrender was to be executed. The notary-lawyer who prepared the document proceeded very formally. The act was read to the petitioners in advance; they were afforded an opportunity to edit

and/or correct it, to change their minds and, more importantly, the effects of that act were explained to them in detail (as they had been previously explained to plaintiff by the Children's Bureau). The act of surrender was formally and properly executed in accordance with R.S.9:402.

The next day, the plaintiffs phoned long-distance, as they had on many previous occasions, and said they had changed their minds and did not want to go ahead with the surrender. That was on August 19, 1975. On August 21, 1975, the child was placed by the Bureau for adoption with prospective adoptive parents. These parties remain unknown and are in actual physical possession of the child since August 18, 1975.

There is no doubt in the Court's mind that there has never been any pressure, undue influence or the like brought to bear on these plaintiffs by the Children's Bureau. This is evident from the record and from December, 1974 up to the final act of surrender executed on August 17, 1975. It is also evident that these plaintiffs are mature individuals; not possessed of formal education beyond the ninth grade but by no means dumb or illiterate. They are possessed of all their faculties, and were throughout the many months during which they deliberated in these premises.

The record shows that at first the plaintiff-wife planned to come from Lafayette to New Orleans to have her baby and to keep the plans for adoption from her parents. However, these parents were brought into the situation and obviously, there was some

semblance of the "old-time" family meeting having been held.

The gist of the plaintiff's suit is lack of continuing consent and their right to change their minds again and again and again, even after they were fully aware of the fact that the final act of surrender, once executed, was irrevocable. They allege they had no real knowledge or understanding of the import of their action, did not understand what the act of surrender meant and the effects thereof.

During the course of this trial, defense counsel questioned the plaintiff-wife about the act of surrender, whether its consequences were explained to her, etc. He then showed the document to her and asked her to identify her signature on it. She looked long and hard at the paper and then snatched it from the attorney's hands, crumpled it in her hands and attempted to destroy it. The Court appreciates the fact that she was emotional while on the stand and that the emotional disturbance and scene in the courtroom was but a display of human emotions. However, observing her general conduct and demeanor while on the stand, her having again viewed the document, looked at it carefully and for a considerable period of time before attempting to destroy it causes the Court to believe that she knew full well the importance of that document and the consequences of her having signed it.

The act of surrender executed in this case was not a rash, impulsive act on the part of the plaintiffs. It came after many months of careful and apparent continued

thought and deliberation; during periods when these plaintiffs were thinking about surrendering their child, when the child was actually surrendered, when they had possession of their child and when they did not, etc.

The Court reads R.S.9:402 and finds no ambiguity there. It's [sic] language is clear: it covers children born in and out of wedlock. There is no distinction to be drawn between an unwed mother alone surrendering her illegitimate child and both parents jointly surrendering their legitimate child.

The Court relies heavily upon IN RE: AMORELLO, 229 La.304, 85 So.2d 883 (1956) and BELL V. CAMPBELL, 219 La.1075, 55 So.2d 250, and concludes from the statute and these decisions that the act of surrender executed by these plaintiffs was irrevocable. The law does not require the continued consent of the blood parents beyond the point at which they freely and voluntarily sign the act of surrender.

For these reasons, there has been judgment rendered setting aside and recalling the alternative writ issued, a refusal to grant a writ of habeas corpus and a dismissal of plaintiff's lawsuit at their costs.

New Orleans, Louisiana, September 15, 1975.

(s/ Melvin J. Duran)
J U D G E

[APPENDIX D]

IN THE CIVIL DISTRICT COURT
IN AND FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 598-179 DIVISION H DOCKET 5

WILLIAM JOHATHAN GOLZ
nad PAMELA FORTIER GOLZ

vs.

CHILDREN'S BUREAU OF
NEW ORLEANS, INC.

[Filed: March 24, 1976]

NOTICE OF APPEAL

Pursuant to Rule 10 of the Supreme Court of the United States, petitioners William Jonathan Golz and Pamela Fortier Golz hereby appeal to the Supreme Court of the United States from the judgment of the Supreme Court of Louisiana entered on January 29, 1976, which affirmed the judgment of the Civil District Court rejecting petitioners' demand. This notice of appeal is being filed in the court possessed of the record. This appeal is taken under 28 U.S.C. §1257(2).

Respectfully submitted:

Dated: March 24,
1976

[S/ DONALD JUNEAU]
DONALD JUNEAU
STANLEY A. HALPIN JR.

Attorneys for Appellants and
Petitioners William Jonathan
Golz and Pamela Fortier Golz